

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

HEART K LAND & CATTLE CO., INC.,

Plaintiff,

vs.

MICHAEL A. LONG, FRANCES A.
SAKAL, LAUREN C. LONG, UNITED
STATES OF AMERICA, MONTANA
DEPARTMENT OF REVENUE, *et al.*,

Defendants.

CV 12-162-BLG-DWM-JCL

ORDER

FRANCES A. SAKAL,

Counterclaimant,

vs.

HEART K LAND & CATTLE CO., INC.,
UNITED STATES GOVERNMENT
DEPARTMENT OF THE TREASURY,
MONTANA DEPARTMENT OF
REVENUE, *et al.*,

Counter-Defendants.

LAUREN C. LONG,

Counterclaimant,

vs.

HEART K LAND & CATTLE CO., INC.,
UNITED STATES GOVERNMENT
DEPARTMENT OF THE TREASURY,
MONTANA DEPARTMENT OF
REVENUE, *et al.*,

Counter-Defendants.

UNITED STATES OF AMERICA,

Counterclaimant,

vs.

HEART K LAND & CATTLE CO., INC.,
FRANCES A. SAKAL, LAUREN C.
LONG, MONTANA DEPARTMENT OF
REVENUE, and MICHAEL A. LONG,

Counter-Defendants.

This matter comes before the Court on Findings and Recommendations entered by United States Magistrate Judge Jeremiah C. Lynch, (Doc. 111), regarding a Motion for Summary Judgment brought by the United States, as Defendant and Counterclaimant, (Doc. 84). Judge Lynch recommends the United

States' Motion be granted as to Michael Long's 2010 federal tax liability and denied in all other respects. (Doc. 111 at 27.) Objections to Judge Lynch's Findings and Recommendations were due January 27, 2014. (Doc. 112.) No timely objection was filed.

Where no party objects, the Court reviews the findings and recommendations of a United States Magistrate Judge for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error is present only if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch's Findings and Recommendations are without clear error. The United States seeks summary judgment as to all claims advanced in its four-count counterclaim in this case. These claims seek to reduce to judgment the joint federal income tax liabilities of Michael Long and Lauren Long for the 2009 tax year, to reduce to judgment the individual federal income tax liability of Michael Long for the 2010 tax year, to negate the purported transfer of the Suce Creek Property from Michael Long to Francis Sakal as a fraudulent conveyance, and to foreclose on its federal tax liens on the Suce Creek Property. The United States' Motion is well-taken as to Michael Long's 2010 federal tax liability, as there is no

genuine issue of material fact and the United States is entitled to judgment as a matter of law on this point. The existence of a genuine issue of material fact as to Michael and Lauren Long's 2009 federal tax liability precludes the entry of summary judgment as to that portion of the United States' Motion. Similarly, genuine issues of material fact preclude the entry of summary judgment as to the United States' fraudulent transfer claim. The United States has not established as a matter of law that it is entitled to foreclose on its lien interests attached to the Suce Creek Property and therefore summary judgment is denied as to that claim.

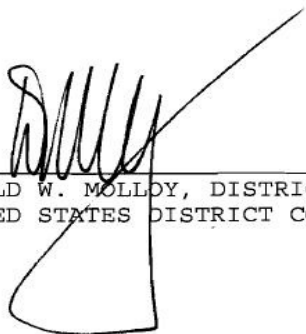
IT IS ORDERED that Judge Lynch's Findings and Recommendations as to the United States' Motion for Summary Judgment, (Doc. 111), are ADOPTED IN FULL.

IT IS FURTHER ORDERED that the United States' Motion for Summary Judgment, (Doc. 84), is GRANTED as to Count II of the Counterclaim, which seeks to reduce to judgment the individual federal income tax liability of Michael Long for the 2010 tax year. The United States' Motion for Summary Judgment is DENIED as to Counts I, III, and IV of the Counterclaim.

IT IS FURTHER ORDERED that the Clerk of Court shall enter judgment in favor of the United States and against Michael Long in the amount of \$142,994.68, less any credits according to proof, plus interest and other statutory

additions, as provided by law, that have accrued since December 31, 2013.

DATED this 29th day of January, 2014.



DONALD W. MOLLOY, DISTRICT JUDGE
UNITED STATES DISTRICT COURT